

Establishment of Airport Land Use Commissions

PURPOSE OF ALUCs

More than a third of a century has passed since the California state legislature first enacted the portion of the state aeronautics law providing for creation of airport land use commissions (ALUCs). The statutes governing airport land use commissions are set forth in the State Aeronautics Act part of the California Public Utilities Code commencing with Section 21670 (Division 9, Part 1, Chapter 4, Article 3.5).

Amendments to the original 1967 law have been made about every two years since that time. Some of these amendments have involved relatively minor changes deemed necessary to respond to a particular issue or, in some cases, special circumstances in an individual county. Others have had the effect of causing major changes in the requirements for and operation of airport land use commissions.

The California state legislature's purpose in authorizing the creation of airport land use commissions has remained largely unchanged since the early years of the statutes. This purpose is succinctly stated in the current law (Section 21670(a)):

- “It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.”
- “It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.”

This chapter focuses on:

- The purpose of ALUCs
 - Their powers and duties
 - Limitations on ALUC powers
 - The composition of ALUCs
 - Alternatives to ALUC formation
 - ALUC rules and regulations
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A brief legislative history of airport land use commissions is included in Appendix A.

As discussed later in this chapter, state law requires nearly every county in California to conduct airport land use compatibility planning. Several alternatives and exceptions to creation of airport land use commissions are provided, however.

AUTHORITY OF ALUCs

The airport land use compatibility planning authority of airport land use commissions is enumerated in various sections of the Aeronautics Act.

Powers and Duties

In the broadest sense, the law defines the powers and duties of ALUCs in terms which parallel the commissions' purpose:

“To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses” (Section 21674(a)).

To fulfill this basic obligation, ALUCs have two specific duties:

- **Prepare Compatibility Plans**—Each commission is required to “prepare and adopt” an airport land use plan for each of the airports within its jurisdiction (Sections 21674(c) and 21675(a)).
- **Review Local Agency Land Use Actions and Airport Plans**—The commissions' second duty is to “review the plans, regulations, and other actions of local agencies and airport operators...” (Section 21674(d)).

The law is less precise regarding how ALUCs are to go about each of these two tasks. Some of the law's provisions are mandatory; others leave substantial discretion to each individual commission. These topics are addressed in the chapters which follow.

Statutory and Practical Limitations on ALUCs

Just as important as the specified powers and duties of ALUCs are the limitations on their authority. Some of these limitations are explicitly noted in the statutes. Other limitations are more implicit or, in some cases, left unaddressed by the Aeronautics Act. Still others result mostly from practical factors involved with implementation of the law.

Existing Land Uses

Perhaps foremost among the statutory limitations on ALUCs is that they have no authority over existing land uses regardless of whether such uses are incompatible with airport activities (Sections 21670(a)(2) and 21674(a)). ALUCs, for example, cannot acquire property or otherwise force changes in the way a property is developed or used.

The Aeronautics Act does not define when in the land use planning and development process a proposed new land use effectively becomes an existing use. Also not addressed is the question of whether or how much can an existing use be modified or reconstructed without coming under ALUC review authority. For insights into these types of issues, it is necessary to turn to other state statutes as well as to case law.

Requirements and options regarding preparation of comprehensive land use plans are discussed in Chapter 2 of this *Handbook*. Review procedures are examined in Chapter 4.

See Chapter 3 for a discussion of defining existing land uses for the purposes airport land use compatibility planning.

Airport Operations

A second explicit limitation on ALUC authority is set forth in Section 21674(e):

“The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.”

The meaning of “operation of any airport” is left undefined. Clearly, any actions directed toward the day-to-day activities of an airport or the manner in which aircraft operate are beyond the purview of ALUCs. Equally clearly, ALUCs have authority to review proposed airport plans or development to the extent that such proposals could affect off-airport land uses. Less clear are the limitations on ALUCs’ involvement in other facets of airport planning and development such as nonaviation uses of airport property.

One issue which commonly arises is the need to update airport activity forecasts in conjunction with preparation of a compatibility plan. This topic is examined in Chapter 2.

Types of Compatibility Concerns

Several sections of the law (most notably, the declaration of purpose, Section 21670(a)) refer to the commissions’ authority to address noise and safety problems. This suggests that the law does not intend for ALUCs to address other types of airport land use compatibility issues such as air quality or ground access traffic. Nothing in the law specifically excludes ALUC consideration of such matters, however.

A discussion of the practical aspects of ALUC involvement in issues other than noise and safety is included in Chapter 2.

Geographic Jurisdiction

Some airports have impacts which extend across county boundaries. Until 1997, the state law did not contain any provisions for dealing with such situations. As discussed later, the addition of Section 21670.4 now permits formation of a separate ALUC with authority to address compatibility issues around “intercounty” airports. Except for this provision and a situation in which a multi-county ALUC has compatibility planning responsibilities in both of the counties involved, no ALUC has jurisdiction over land uses in an adjacent county. (This conclusion has been supported by an opinion of the state Attorney General.) The only other choice for addressing multi-county airport impacts thus is for the ALUC in each of the affected counties to adopt its own compatibility plan for its portion of the airport environs.

Extent of Restrictiveness

Another limitation which airport land use commissions need to consider is the extent to which they can legitimately seek to restrict land uses around an airport. Restrictions have limits even when they are necessary for noise and safety compatibility and have the support of the local agency having land use jurisdiction. This issue comes under the heading of inverse condemnation or *takings* and has been examined at length in other laws and in many court cases. In general, as long as the restrictions allow some remaining economically viable use of the land, a court will usually find them to be legitimate. However, an attempt by an ALUC to preclude all development from an area—the runway protection zones being the primary example—would undoubtedly be deemed a regulatory taking. Where prevention of all development is critical to the operation of an airport, it must

The takings topic is examined in the final portion of Chapter 3. Also addressed in Chapter 3 is the issue of potential overrulings of ALUC actions by local jurisdictions which deem ALUC policies to be unnecessarily restrictive.

be the responsibility of the airport owner to acquire the property or the development rights.

Plan Implementation

The ability of ALUCs to ensure airport land use compatibility is circumscribed by the fact that they are not implementing agencies.

ALUCs exercise approval authority over certain types of local government land use actions as specified in the Aeronautics Act. Local governments also must abide by the provisions of the airport land use planning statutes. Nevertheless, the law only gives ALUCs powers to *assist* local agencies “in ensuring compatible land uses” (Section 21674(a)) and to *coordinate* compatibility planning efforts at the state, regional, and local levels (Section 21674(b)). ALUCs are not implementing agencies in the manner of local governments. Nor do they issue permits for a project such as those typically required both by local governments and various state and federal agencies. The ability of ALUCs to ensure implementation of their plans is thus limited from both a statutory and a practical perspective. For example:

See Chapter 5 for a discussion of steps which a local jurisdiction must take in order to overrule an ALUC decision.

- ALUC decisions can be overruled by the local land use jurisdiction. Although local agencies must adopt findings and take other steps in order to overrule the ALUC, they have that authority.
- The question of a proposed land use’s compatibility with an airport is as much a matter of degree as it is a clear, black-and-white issue. Consequently, ALUCs should take care to document the rationale upon which their land use compatibility criteria are based. In the event of a legal challenge, the test will be an objective one, however abstract, and local agencies’ views of compatibility may be just as persuasive to a court as that of the ALUC. A court decision thus will turn first on the degree to which studies and evidence—including evidence of consensus among airport and land use planners—support the criteria.
- Even when a local agency clearly stretches the concept of compatibility or otherwise ignores the intent of the state law, most ALUCs lack the resources to challenge the agency’s action.
- Lastly, from a practical standpoint, ALUCs rarely become aware that a local agency is intending to overrule a decision of the commission. The law does not require local agencies to notify the commission of such an intent. ALUCs thus seldom get the opportunity to argue their case before a county board of supervisors or city council prior to when the overruling action is voted upon.

REQUIREMENTS FOR CREATION OF ALUCs

The state law governing creation of airport land use commissions applies to every county in California having an airport “operated for the benefit of the general public” (Section 21670(b)). All but one county (San Francisco) contains a public-use airport and is thus subject to the law.

This fundamental requirement notwithstanding, the statutes also include several alternatives and exceptions. One allows counties to avoid having an ALUC if they establish an alternative method of accomplishing airport land use compatibility planning. In other very limited situations, a county can be totally exempted from the requirements.

ALUC Formats

For those counties which have an airport land use commission, the law provides for two basic choices of format. One choice is a separate, single-purpose, entity with representation set in accordance with the provisions of the law. The second basic option is designation of another body, already existing for another purpose, to serve as the ALUC.

A third option applies only in special situations where an airport's influence area boundary encompasses multiple counties.

Single-Purpose Entity

If established as a single-purpose body, the standard membership composition of an airport land use commission consists of seven members selected as follows (Section 21670(b)):

- Two county representatives (selected by the board of supervisors);
- Two city representatives (selected by a committee comprised of the mayors of all cities in the county);
- Two having "expertise in aviation" as defined in Section 21670(e) (selected by a committee of the managers of all public airports in the county); and
- One general public representative (selected by the other six commission members).

Included in the law are several additional qualifications and provisions for minor variations to this basic composition. In particular:

- **City Adjacent to Airport**—If any cities are "contiguous or adjacent to the qualifying airport," at least one of the city representatives shall be from such cities (Section 21670(b)(1)). Where there is more than one public-use airport in a county, this provision presumably needs to be applied only to one of them. Also, this provision might reasonably be interpreted as applying to any city whose boundaries extend into the ALUC's planning area, not just to those bordering the airport.
- **No City in County**—If there is no city in a county, then the county and airports each appoint one additional member (Section 21670(b)(1)).
- **Ownership by Outside Entity**—If an airport in one county is owned by another county or by a city or special district in that other county, then the other county shall appoint one of the county members and the cities shall appoint one of the city members (Section 21671). This provision pertains to very few existing airports, including:
 - Ontario International (owned by the city of Los Angeles, located in county

Table 1A tabulates the number of counties using each ALUC format as of mid 2001.

Section 21670(e) defines a person with expertise in aviation as either someone "who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports" or who is "an elected official of a local agency which owns or operates an airport."

- of San Bernardino, but San Bernardino County does not have an ALUC);
- San Francisco International (owned by city and county of San Francisco, located in county of San Mateo);
- Turlock Municipal (owned by the city of Turlock, located in county of Merced).

In situations where it applies, the result can be more representation associated with the affected airport than for other airports in the county. The adjacent county and cities can decline to appoint representatives if they wish.

Designated Body

If the board of supervisors and the mayors' committee in a county each determine that another body can accomplish essential airport land use compatibility planning, then such a body can be designated to assume the planning responsibilities of the airport land use commission and a separate commission need not be established (Section 21670.1(a)). The designated body must have at least two members with aviation expertise or, when serving as the ALUC, be augmented to have two members thus qualified (Section 21670.1(b)).

The designated body format is quite common among ALUCs—roughly as many counties utilize it as have a separate entity as the ALUC. In most of these instances, a regional planning agency serves as the ALUC. Other options include the board of supervisors, the county planning commission, or the county airport commission.

Intercounty ALUCs

Various airports in the state have noise and safety impacts which extend across county boundaries. These circumstances present a special challenge for compatibility planning. All too often, the result has been a lack of compatibility planning within the county adjacent to the one where the airport is located.

Two options exist as to how ALUC responsibilities for these airports can be coordinated. The most commonly used option is for the ALUC in the second county to adopt its own compatibility plan for the portion of an airport influence area extending into its jurisdiction. Sometimes the ALUC in the county where the airport is located will offer guidance as to suitable compatibility criteria for the adjacent county. The primary ALUC, however, has no jurisdiction over land uses in the adjacent county (except in the case of a regional planning agency serving as a designated airport land use commission for each of the counties). This limitation is delineated in an opinion of the State Attorney General.

As of mid 2001, no counties have exercised the option of forming a separate ALUC for an intercounty airport.

The second choice, one authorized by the legislature in 1997, provides the opportunity for a unified approach to compatibility planning around these so-called “intercounty” airports (Section 21670.4). The law allows the affected counties and cities to create a separate ALUC having authority over all of the impacted environs. This ALUC would be in addition to the ones responsible for compatibility planning around other airports in the respective counties.

| Format | Number of Counties ^a | |
|-----------------------------------|---------------------------------|--|
| Single-Purpose ALUCs | 27 | |
| Designated Body ALUCs | 20 | |
| Regional Planning Agency | 12 ^b | |
| Airport Commission | 2 | |
| Planning Commission ^c | 3 | |
| Board of Supervisors ^c | 3 | |
| Alternative Process | 3 | |
| Exceptions | 8 | |
| Single-County Exceptions | 3 | |
| Exempt—No Compatibility Issues | 4 | |
| Exempt—No Airports | 1 | |
| None—No Action Taken | 0 | |
| <i>Total</i> | 58 | |

^a As of September 2001.

^b Total represents eight ALUCs — one agency serves as the ALUC for four counties and another for two counties.

^c Including bodies having additional members when serving as the ALUC.

^d ALUCs in some of the counties essentially do not exist—they have been formally established, but have never become or no longer are active.

TABLE 1A
ALUC Format Usage

Membership options for an intercounty ALUC are similar to those of other ALUCs. A separate entity can be established, but with the county, city, and airport representation each divided between the two counties. Alternatively, an existing entity can be designated to serve as the ALUC.

Note that the law defines an intercounty airport as one where a county line bisects a runway or any of various safety compatibility zones. No mention is made of situations where only the noise contours or other portion of an airport influence area crosses a county boundary. A reasonable interpretation of the intent of the law, though, would be that an intercounty ALUC could be established any time ALUCs in two separate counties would have a compatibility plan for the same airport.

Alternative Process

Perhaps most significant among the exceptions to the requirements for establishment of ALUCs is one which was added to the law in 1994. This section (21670.1(c)) provides for what is generally referred to as an “alternative process” for a county to conduct airport land use compatibility planning. It eliminates the need for formation of an ALUC, but not for preparation of compatibility plans.

Implementation of the alternative process requires completion of several actions explicitly defined by the law:

- **Determination of Intent**—The county board of supervisors and each affected city must individually determine that proper airport land use compatibility planning in the county can be accomplished without formation of an ALUC.
- **Adoption of Planning Processes**—The county and each affected city must adopt processes which provide for:
 - Preparation, adoption, and amendment of a compatibility plan for each public-use airport in the county and designation of an agency responsible for these actions;
 - Public and agency notification regarding compatibility plan preparation, adoption, or amendment;
 - Mediation of disputes regarding preparation, adoption, or amendment of compatibility plans; and
 - Amendment of general plans and specific plans to be consistent with the compatibility plans.

These actions must be completed to the satisfaction of the Division of Aeronautics within 120 days of the determination to pursue the alternative process. If not accomplished within that time frame, then an ALUC must be formed.

- **Division of Aeronautics Approval**—The Division of Aeronautics is required to approve a proposed alternative process if it determines that the above elements are structured in a manner which will:
 - Result in preparation, adoption, and implementation of compatibility plans within a reasonable amount of time;

See Chapter 5 for a discussion of the compatibility planning obligations of counties and cities which elect to follow the alternative process.

As of mid 2001, three counties—Inyo, Kings and San Bernardino—had been approved to use the alternative process.

- Rely upon the compatibility guidelines set forth in this *Handbook* and any applicable federal regulations; and
- Provide adequate opportunities for public and agency input into the process.

Other Exceptions

Unlike the alternative process, which potentially could be established in any county, several other exceptions to formation of an ALUC are narrowly limited in applicability.

Specific County Exceptions

Three exceptions are specifically directed at a single county:

- **Los Angeles County**—In Los Angeles County, the regional planning commission is given “the responsibility for coordinating the airport planning of public agencies within the county” (Section 21670.2). If an impasse occurs regarding this planning, any public agency involved may appeal the matter to the regional planning commission. The agency whose action led to the appeal may overrule the commission with a four-fifths vote of its governing body.
- **Kern County**—The Kern County exception stipulates that an ALUC need not be formed if the county and affected cities “agree to adopt and implement” a compatibility plan for each airport by May 1995 (Section 21670.1(d)). The plans were required to be reviewed by the Division of Aeronautics and to be consistent with the guidelines indicated in the 1993 edition of this *Handbook*.
- **Santa Cruz County**—This exception is stated as applying to any county which “has only one public use airport that is owned by a city” (Section 21670.1(e)). The intent of the legislation is understood to be that the one city-owned airport is the only public-use airport in the county. Santa Cruz was the only eligible county as of the 1996 cut-off date. As with the Kern County exception, this statute does not exempt the county from conducting airport land use compatibility planning. Specifically, the statutes require that the county and the affected city include within their general plans and any specific plans compatibility criteria which are consistent with the 1993 *Handbook*.

Declaration of Exemption

A final broadly written, but narrowly applicable, exception is one which allows a county board of supervisors to declare the county to be exempt from the requirements for formation of an ALUC if it finds that no airports in the county are affected by any “noise, public safety, or land use issues” (Section 21670(b)). This exception is allowed only if none of the airports in the county are served by a scheduled airline. Also, before taking this action, the board must: consult with airport operators and affected local entities; hold a public hearing; and adopt a resolution supported by find-

Four rural counties—Alpine, Lake, Modoc, and Sierra—have declared themselves exempt.

ings. A copy of the resolution must be transmitted to the Division of Aeronautics.

Dissolution of an Established ALUC

Under the present law, disbanding an ALUC which is already in existence can only be done through implementation of the alternative process, declaration of exemption, or closure of all public-use airports. In the latter instance, the ALUC would simply be dissolved because the county would no longer meet the conditions (specified in Section 21670(b)) under which airport land use compatibility planning is required.

To disband an ALUC in either of the other circumstances the actions which were taken to create the ALUC in the first place would need to be reversed. For most ALUCs, this would mean that majorities of the board of supervisors of the county (or counties in the case of multi-county ALUCs), the selection committee of city mayors, and the selection committee of public airport managers would each have to terminate their appointments of individual commissioners and the disbanding of the commission itself. A county board of supervisors does not have the authority to unilaterally eliminate an ALUC. Additionally, if the alternative process is to be used in lieu of having an ALUC, then the actions outlined earlier in this chapter must be completed.

Comparative Effectiveness of ALUC Options

**DEPT. OF TRANSPORTATION
GUIDANCE**
With limited exceptions, every county in the state is required to engage in airport land use compatibility planning.

A conclusion which can clearly be inferred from the preceding discussion is that, while the state legislature has been willing to allow counties various alternatives to formation of single-purpose airport land use commissions, it continues to give high priority to the need for airport land use compatibility planning. Except for those counties which can document that they have no compatibility issues (or no airports), every county is required to conduct some form of compatibility planning.

The 1967 legislation which originally established the requirements for creation of airport land use commissions was enacted to address significant compatibility issues which were arising at the time. Although other options for engaging in airport land use compatibility planning have since been added to the law, ALUCs continue to represent the most focused method of meeting the law's objectives. This factor notwithstanding, effective airport land use compatibility planning does not necessarily require the existence of an airport land use commission.

**DEPT. OF TRANSPORTATION
GUIDANCE**
If a local jurisdiction elects to take on the compatibility planning responsibilities, its policies must fully set forth the compatibility criteria and review procedures by which it will fulfill these responsibilities. The responsibilities of local jurisdictions with regard to airport land use compatibility planning are outlined in Chapter 5.

With or without an ALUC, the statutes place heavy emphasis on community general plans as essential components of the compatibility planning process. If an ALUC is established, the law expressly requires that local jurisdictions modify their general plans so as to be consistent with the commission's compatibility plans (or that special steps be taken to overrule the ALUC action). In many respects, the function of ALUCs can therefore be viewed as being to establish the criteria and procedures by which local jurisdictions can continue to do compatibility planning on their own. Under the alternative

process or the specific-county exceptions, the plan preparation function of ALUCs is bypassed, but local jurisdictions still must engage in compatibility planning. Communities which deem airport land use compatibility planning to be a high priority can be effective in their efforts with or without the existence of an ALUC. The difference between the ALUC and non-ALUC approaches thus is not so much that one is inherently always more effective than the other, but that the existence of an ALUC provides a source of expertise and, more importantly, an oversight function that is otherwise missing.

The form which airport land use compatibility planning takes in any particular county becomes a matter of balancing among several sometimes parallel, but often competing, objectives. Among them:

- Protecting airports from incompatible nearby development.
- Protecting the general public from noise and safety impacts of airports.
- Fulfilling community needs for land use development.
- Maintaining local control over land use decisions.
- Providing an independent oversight of local land use decisions which affect airports.
- Providing a mechanism for mediation of disagreements between airport operators and surrounding land use jurisdictions.
- Minimizing the costs associated with reviewing proposed development for compatibility with airport activities.

Given these many needs and objectives, no one format for airport land use compatibility planning is best for all counties. Listed in Table 1B is a summary of the comparative advantages and disadvantages among the three principal formats: single-purpose ALUCs, designated-body ALUCs, and the alternative compatibility planning process.

Relationship to Other Local Government Bodies

Regardless of whether airport land use commissions are constituted as single-purpose entities or as designated bodies, they function as independent decision-making organizations. In this respect, the authority of ALUCs is sometimes compared to that of local agency formation commissions (LAFCOs). The state law specifically establishes some of the relationships between ALUCs and other local government bodies, but leaves others undefined.

County Government

The relationship between an airport land use commission and the government of the county in which it is formed is perhaps the most often misunderstood. Even though most ALUCs operate under the auspices of county planning departments, the decisions of the commission are final and not subject to board of supervisors approval in order to take effect. This applies with respect to both of the commission's primary responsibilities—adoption of compatibility plans and review of local land use actions and airport plans. It also applies regardless of whether a separate ALUC has been established or some existing county agency such as a planning commission functions as a designated ALUC. A county must follow the same steps as a city if it wishes to overrule an ALUC decision.

The only area in which the Aeronautics Act spells out county authority over an ALUC is with regard to expenditures and staffing. Any compensation for the commission members is determined by the board of supervisors (Section 21671.5(b)). Also, an ALUC cannot hire a staff or contractors without prior approval of the board of supervisors (Section 21671.5(d)). Nevertheless, counties are required to provide staff assistance and cover “usual and necessary” expenses for the operation of ALUCs (Section 21671.5(c)).

Not indicated in the statutes is whether counties are obligated to provide legal counsel to ALUCs and, if so, in what manner. This question can become particularly evident when a legal disagreement occurs between the ALUC and the county. Because they would have a clear conflict of interest in representing both sides, some county counsels have recommended, and boards of supervisors have agreed, that an independent counsel be hired to represent ALUCs. In most situations, though, county counsel represents ALUCs in any legal proceedings.

Regional Planning Agencies

When a regional planning agency serves as a designated ALUC, funding and staffing of ALUC operations is part of the arrangement. The county (or counties) and cities each provide a share of the funding for the regional agency and are represented on the agency’s governing body. Generally, though, no single county or city has direct control or veto power over the regional agency’s—and thus the ALUC’s—decision making. An advantage of this format is elimination of the potential conflict of interest which a county staff can face when representing both an ALUC and the county in matters over which there is a disagreement.

RULES AND REGULATIONS

The discussion here addresses rules and regulations governing the general functioning of airport land use commissions. Procedures addressing the preparation of compatibility plans and the review of local projects are covered in Chapters 2 and 4, respectively.

The aeronautics law specifically gives ALUCs the power to adopt *rules* and *regulations* (also sometimes referred to as *bylaws*) as necessary to carry out their responsibilities (Section 21674(f)). All airport land use commissions should exercise this power. Rules and regulations are particularly necessary for ALUCs established as single-purpose entities. Commissions or other bodies formed for other purposes, but designated to serve as airport land use commissions, may need to augment their rules and regulations to address topics specific to the powers and duties of ALUCs.

The substance of rules and regulations will largely be determined by local experience in the county where the ALUC is formed. The Aeronautics Act sets certain limitations on how ALUCs can conduct business (mostly in Section 21671.5), but does not require that these subjects be addressed in adopted rules and regulations. The only topic which must be covered is conflicts of interest.

The following topics are drawn from various sections of the Aeronautics Act as well as from other state laws and the rules and regulations adopted by

Single-Purpose ALUC

Establish ALUC as a separate, single-purpose entity.

Advantages

- Membership typically includes pilots and others who are very knowledgeable about aviation.
- Members tend to be strong advocates of stringent airport land use compatibility policies.
- With strong aviation interests of members, commission is likely to pursue keeping compatibility plan up to date and to make certain it is implemented by affected jurisdictions.
- Separate, single-purpose ALUC provides independent oversight of local planning decisions affecting airports.

Disadvantages

- Members often not very knowledgeable about land use planning and development process.
- Members may have unrealistic expectations regarding appropriate degree of development restrictions.
- Commissions which meet infrequently tend to run poorly: outdated compatibility plans; unfamiliarity with compatibility policies; vacant membership positions; etc.
- Separate body results in comparatively high staffing and operational costs, especially if commission meets regularly.
- Requirement for ALUC review can increase overall processing time for development approval.
- County staffs can sometimes have conflict of interest when representing ALUCs in disagreements with county boards of supervisors.

Designated Body Serving as ALUC

Designate another, already existing, entity to serve as ALUC.

Advantages

- To the extent that a designated body has other planning responsibilities, members are likely to be familiar with the land use planning and development process.
- Members understanding of other community needs allows balanced approach to planning and development decisions, thus reducing the potential for local jurisdiction overruling of ALUC actions.
- Efficiency of utilizing already established entity as ALUC reduces staffing and operational costs.
- Designation of regional planning agency with its own staff to serve as ALUC eliminates potential conflicts of interest on part of county staff.

Disadvantages

- Members may have little aviation-related knowledge or experience.
- Members may tend to give higher priority to other community development needs to detriment of airport compatibility objectives.
- Requirement for ALUC review may increase overall processing time for development approval.

Alternative Process

Conduct airport land use compatibility planning without forming an ALUC.

Advantages

- If properly implemented, forces compatibility planning issues to be fully addressed in community general plans.
- Minimizes project review costs and may reduce processing time for development approval.

Disadvantages

- No oversight process to assure that affected jurisdictions have prepared compatibility plans as required.
- No checks to determine if compatibility matters are adequately addressed in general plans.
- No assurance that compatibility issues are addressed in review of individual development projects.
- Community planning staffs often lack expertise in airport compatibility concerns.

TABLE 1B**Potential Tradeoffs among ALUC Formats**

individual ALUCs in the state. They are listed here as examples of topics which can be included.

Meetings

Normally, ALUC meeting procedures should follow those of the county or designated body under which the commission is organized. Such procedures include: notice of meetings and special meetings; conduct of business; election of officers; open meeting requirements (Brown Act); holding of public hearings; recording of minutes; etc. Among meeting procedures which may be particular to ALUCs are these:

- **Frequency**—The law states that “the commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members” (Section 21671.5(e)). Many ALUCs have an established monthly meeting schedule. However, once an ALUC has adopted a compatibility plan for each of its airports and the affected local plans have been determined to be consistent with it, the types of projects subject to future review are greatly reduced and the need for regular meetings may largely disappear.
- **Quorum**—A majority of the commission’s membership comprises a quorum for the purposes of conducting business. However, any action taken by the commission requires a “recorded vote of a majority of the full membership” (Section 21671.5(e)). Proxies (see following discussion) present at a meeting in place of a regular member are counted when determining the existence of a quorum or for voting purposes.

Duties of Members

Term of Office

The members of an airport land use commission organized with a standard composition each serve four-year terms. All terms are to end on the first Monday in May, but are to be rotated so that one or two terms expire each year (Section 21671.5(a)). Members serve at the pleasure of the appointing body and may be removed by that body at any time and for any reason.

The practice on many ALUCs is for members to continue to serve until a replacement is appointed even if their terms of office have expired. If this is the intent of the appointing body, it should be so stated when the appointment is made. Members should otherwise not continue to serve beyond the end of their term. Doing so could call into question any decisions rendered by the commission during this period.

The terms of office for the members of a designated body serving as an ALUC normally follow those of the designated body.



It is essential for the bodies responsible for appointment of members to the ALUC to fill any vacancies as quickly as possible. Vacancies are particularly common on ALUCs which meet infrequently. Lack of members in turn makes obtaining a quorum for a meeting more difficult.

Officers

ALUC rules and regulations should indicate what offices are to be established on the commission, what the duties of each officer are, and when new officers are to be selected.

A designated body serving as an ALUC usually keeps the same officers when sitting as an ALUC as it has when convened in its regular capacity. An exception to this might be when the established body, sitting in the capacity of an ALUC, is augmented by additional members (such as to fulfill the requirement for aviation expertise). In this situation, the rules and regulations should indicate whether a separate vote for ALUC officers is to be taken.

Appointment of Proxies

In addition to an ALUC's regular members, state law provides for the appointment of proxies. Each member is required to appoint a proxy who "shall serve at the pleasure of the appointing member." A signed document designating the proxy is to be kept on file at the commission offices. The proxy represents the regular commission member and is empowered "to vote on all matters when the member is not in attendance" (Section 21670(d)). However, in order to vote on a matter discussed at a previous meeting, a proxy should be current on the documents and issues involved (that is, the proxy generally should either have attended the prior meeting, listened to a recording of the meeting, or read any detailed minutes). Circumstances under which a proxy can or cannot vote on matters previously discussed are appropriated topics for rules and regulations.

The law is silent with respect to the appointment of proxies on designated bodies which serve as an airport land use commission.

Conflicts of Interest

Section 21672 of the Aeronautics Act requires that commissions "adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of a conflict of interest..." For guidance as to what circumstances constitute a conflict of interest, reference must be made to other state laws; the subject is not further addressed by the Aeronautics Act. In general, a *personal financial interest* in an action would present a conflict of interest on the part of an ALUC member.

Some ALUCs also consider a commissioner's participation as a member of another agency in prior action on an issue before the commission to represent a conflict of interest. The rationale for disqualification under these circumstances seems questionable, however, especially considering that the commission's members serve as *representatives* of their appointing entities. Nevertheless, airport land use commissioners who also serve on another body should remember that their role—and the factors upon which they base their decisions—is different when serving on the ALUC than it is with the other body. As an ALUC member, their primary responsibility is with

regard to prevention of compatibility conflicts between airports and surrounding land uses.

Responsibilities of Staff

ALUCs may wish to include a statement of staff duties and responsibilities in the commission rules and regulations. Among the duties usually delegated to staff are:

- Coordinating with local agency staff to obtain information regarding specific projects to be reviewed by the ALUC;
- Providing general assistance to local agency staff regarding airport compatibility issues;
- Working with the ALUC chairman regarding meeting schedules and agendas;
- Preparing staff reports and meeting agendas;
- Issuing required public notices of pending commission actions;
- Recording meeting minutes; and
- Notifying local agencies of commission decisions on items submitted for review.

Some ALUCs also give staff significant discretion regarding which proposed local projects and other actions are brought to the commission for review and when. Any projects for which ALUC review is mandated by state law *must* be brought before the commission for decision. However, projects submitted on a voluntary basis as a result of agreements between affected jurisdictions and the ALUC do not necessarily require ALUC action. ALUC rules and regulations and/or compatibility plans should be explicit in indicating which types of reviews are delegated to staff for action and which are to be forwarded to the commission for decision. Any proposed land use development actions involving significant compatibility concerns should be examined by the ALUC.

Fees

As further discussed in Chapter 4, the state law (Section 21671.5(f)) allows commissions to charge project proponents for the cost of project reviews. The fee structure and the method and timing of collection are appropriate subjects for ALUC rules and regulations.